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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 LARRY TOTTEN as CHAIRMAN and JOSE
MORENO as CO-CHAIRMAN of the BOARD
12 OF TRUSTEES FOR THE LABORERS
HEALTH AND WELFARE TRUST FUND
13 FOR NORTHERN CALIFORNIA;
LABORERS VACATION-HOLIDAY TRUST
14 FUND FOR NORTHERN CALIFORNIA;
LABORERS PENSION TRUST FUND FOR
15 NORTHERN CALIFORNIA; and
LABORERS TRAINING AND RETRAINING
16 TRUST FUND FOR NORTHERN
CALIFORNIA,

17 Plaintiffs,

18 v.
19

20 R. J. HATLER CONSTRUCTION, INC., a
California corporation; GERALD RAYMOND
HATLER, an Individual; RANDY JAMES
21 HATLER, an Individual; MARGARET
ELLEN ALVAREZ, an Individual; and DOES
22 ONE through FIFTY, inclusive,

23 Defendants.

CASE NO. C-04-3985 TEH

**DECLARATION OF BRUCE K. LEIGH
AND REQUEST FOR LEAVE TO FILE
SUPPLEMENTARY DECLARATION IN
SUPPORT OF MOTION FOR DEFAULT
JUDGMENT**

DATE: Monday, June 20, 2005
TIME: 10:00 a.m.
JUDGE: Senior Judge Thelton Henderson
CTRM.: 12, 19th Floor

24 I, BRUCE K. LEIGH, declare as follows:

25 1. I am an associate of the law firm of Stanton, Kay & Watson, LLP, counsel to
26 plaintiffs LARRY TOTTEN as CHAIRMAN and JOSE MORENO as CO-CHAIRMAN of the
27 BOARDS OF TRUSTEES FOR THE LABORERS TRUST FUNDS FOR NORTHERN
28 CALIFORNIA, et al., parties in the above-referenced action.

1 2. I have personal knowledge of the following and, if called upon to testify, I would be
2 competent to do so.

3 3. On May 31, 2005, the Court issued an order that plaintiffs file a supplementary
4 declaration addressing questions regarding the way they calculated the flat fee liquidated damages
5 and interest shown in attachments to the declaration of Angela Price in support of the motion for
6 default judgment.

7 4. I received the court's order on May 31 and immediately faxed a copy to the
8 collections office for the trust funds, advising that we would need to file the declarations no later
9 than Tuesday, June 7.

10 5. On Friday, June 3 I reminded the trust funds collections office that we would be
11 needing an explanation to draft into a declaration. On Monday and Tuesday the 6th and 7th I further
12 reminded them and discussed the matter, and I prepared a draft supplementary declaration. I was
13 advised that they were swamped with other matters and wanted to review the draft and make some
14 changes. Thus, they were unable to finish the declaration on time. Nor were they able to do so on
15 Wednesday, the 8th.

16 6. Now, on Thursday, the 9th, the collections office have finished preparing a
17 supplementary declaration of Angela Price responding to the court's order, and I am submitting it to
18 the court with a request that the court allow it to be filed despite failing to meet the court's deadline.

19 7. This is a default case. The hearing on the default judgment is calendared for June
20 20. A copy of the supplementary declaration and of this pleading is being served on defendants.
21 The supplementary declaration does not increase or otherwise change the amount demanded by
22 plaintiffs in this action, and defendants should not be prejudiced by the late filing of the
23 supplementary declaration. They will still have notice and opportunity to respond, if they wish.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 9, 2005, at San Francisco, California.

Bruce K. Leigh
Bruce K. Leigh
Attorney for Plaintiffs

~~PROPOSED~~ ORDER GRANTING LEAVE TO FILE SUPPLEMENTARY
DECLARATION OF ANGELA PRICE

For the reasons stated hereinabove, finding that the late filing is excusable and will prejudice defendants, the Court hereby grants leave to allow the late filing of plaintiffs' Supplementary Declaration Of Angela Price In Support Of Motion For Default Judgment.

Date: 6/9/05


Senior Judge Thelton Henderson